

**PLAN COMMISSION MINUTES
5500 SCHOFIELD AVENUE
WESTON, WI 54476
MONDAY, JUNE 10, 2013 – 6:00 P.M.**

CALL TO ORDER

Village President, Loren White called the meeting to order at 6:00 p.m. Members present were Mark Maloney, Dan Froelich, Mike Stenstrom, and Dave Diesen. John Evans was excused. Planning & Development Director, Jennifer Higgins, Director of Public Works, Keith Donner, Building Inspector, Scott Tatro, and Recording Secretary, Valerie Parker were present. There were 6 audience members present.

1) CALL TO ORDER

A. ROLL CALL OF ATTENDANCE

John Evans is excused. All other members were present.

B. APPROVAL OF AGENDA / CONSENT ITEMS

**M/S/P Schuster/Diesen: to approve the agenda.*

2) PUBLIC COMMENT

A. NONE

3) CONSENT AGENDA ITEMS

A. CONSIDERATION OF PREVIOUS MEETING(S) MINUTES: MAY 13, 2013

**M/S/P Maloney/Froelich: to approve the Plan Commission meeting minutes of May 13, 2013.*

B. ACKNOWLEDGMENT OF SIGN PERMITS ISSUED

C. ACKNOWLEDGMENT OF CERTIFICATES OF OCCUPANCY ISSUED

D. ACKNOWLEDGMENT OF CERTIFIED SURVEY MAPS ISSUED

**M/S/P Diesen/Froehlich: to acknowledge the sign permits, certificates of occupancy issued, and certified survey maps issued.*

4) NEW BUSINESS

A. DISCUSSION AND ACTION ON REQUEST FOR APPROVED PRIVATE WAY OR STREET PER SECTION 94.123(B) – CERTIFIED SURVEY MAP: CCSM-5-13-1334 VREELAND/BORNHEIMER – RADTKE AVENUE

Elmer and Theresa Bornheimer, 2302 Radtke Avenue, were present. Tim Vreeland, of Vreeland Associates, 6103 Dawn Street, stated that Bornheimer's are trying to split an existing parcel, where one part of the parcel has an 8-plex and the other part of the parcel has a 3-plex, for financial purposes. They just want to refinance, and are not planning to sell, but this is what the bank is requesting. He stated that he previously met with Higgins on this, and they did not start out asking for a private road, but because setback issues, the private road was drawn in on the CSM. This private road would give access to all three of the properties that Bornheimers own there (which they also own the lot just west of this proposed CSM).

Higgins stated that this proposed private road (Outlot 1) is 50-feet wide. Higgins stated that Donner had determined this private drive would never become a public street, as it is not wide enough. Higgins pointed out Lot 32 (just west of this proposed CSM), which is also owned by Bornheimer is technically landlocked. If this property gets developed in the future, we are requiring an extension for the water/sewer main to serve that property.

Mrs. Bornheimer explained that currently, on the lots proposed to be split, there is a full-size tri-level home with two split entry apartments, which they designed this that way. She stated that this building faces the private driveway, not Radtke Avenue. The apartment faces Radtke Avenue.

Schuster questioned the appearance of the road, which is just a gravel driveway. Mrs. Bornheimer stated that she thought it was a road, as they have been using it for 39 years. Higgins clarified that this is just a private driveway, to get access to the apartments and Bornheimer's home.

Donner explained with the existing utility service to both buildings on the lot. He questioned where the service line is for the 8-unit apartment to the north. Mr. Bornheimer stated the public water/sewer runs along the west side of lot 1. He stated they have a recorded easement for the public utility to get over there. Donner questioned how the service will get to their lot 32, which Mrs. Bornheimer stated is not their issue tonight, because they have no plans to develop that. It was explained to her that it will become an issue years down the road, when a new owner decides to develop the lot, and suddenly finds out the work and expense to get service to that lot.

Maloney questioned why this is an issue now. Donner stated the issue is that the service is currently serving buildings on the same property by convention. He stated that by WI PSC rules, laterals that serve private buildings are not supposed to cross the properties of others, because disputes can arise out of that situation (someone else's public utilities in their yard) between future neighbors. Donner stated that if we have a main, a main that we use to serve someone has to be accessible to anyone else to tap into, so it should be in a public easement or a public right-of-way. We should not be crossing someone else's property to get access to that main. We do not know what the material is in this lateral or whatever lines are buried in this easement. Donner explained there are a couple of options for PC to consider:

- 1) Ideally, the best way to address this is to have a utility-owned main within that easement (which is normally the developer's responsibility to put the mains in to the utility's specification). If that is done up front than the service to Lot 32 can be taken care of whenever they wished in the future, and not pushed off to whoever buys the lot in the future (it would be taken care of in the present).

- 2) Allow the deferral of this, and there would end up being some kind of agreement or condition on the deed requiring that whoever buys this lot in the future and they desire service, they would be obligated to make that extension.

Donner clarified that, ultimately, there needs to be a main extended up through, what is now being called outlot 1, in that easement, so that lot 32 (which is not part of this CSM) can get service someday. He clarified to Maloney that if PC chooses option 2, that there needs to be a condition on this approval that there be some agreement registered, that the main is extended, and that we want the apartment building in proposed lot 1 to connect to the new main. Maloney confirmed that if the new main is put in along outlot 1, and then everything is stubbed off of that (such as lot 1), and lot 2 is already served off of Radtke Avenue, he asked what the estimated cost would be on that main that will have to go to that property. Donner stated that based on last years costs on our public projects, it was about \$60.00/foot for each water and sewer line. With the length being about 207 feet, they would be looking at around \$20,000.

White confirmed that we are talking about replacing the services that run from Radtke Avenue going north to accommodate those three properties (which Donner confirmed accommodating 2 properties). White questioned if they acquired another property if the current main is large enough to serve those. It was stated that the existing main on Radtke Avenue would be large enough, the question is the existing main on the private property, which we are not aware of size or material.

Schuster confirmed that with outlot 1, they would have to put in sewer and water through outlot 1 to service existing lot 32 and proposed lot 1. Vreeland confirmed only at the time that lot 32 is being developed, that a new service would need to be provided because lot 1 is already served. *[Clerk's Note: At the time that lot 32 gets developed, the owner will need to extend the new service to lot 1 and lot 32].* Vreeland stated that he could provide that easement language.

White stated that it is up to PC to make sure we do not leave problems, errors that we may have made, or things we did not consider, for future staff and PC members to deal with. Schuster commented that it has happened in the past where we have made agreements, and then 20 years later things come up and no one knows how or why it got that way. He wants to know what we can do now to guarantee 20-years from now that this will not be an issue. Higgins stated that this needs to be a recordable document as well as the easement indicated on the CSM, so that someone in the future will know what is there. After some discussion the group decided the best way to keep track of lot 32 (and since it is currently under Bornheimer's ownership) to include this as a parcel described (as parcel 3) in this proposed CSM.

White confirmed that outlot 1 will basically serve as a permanent easement for water and sewer and driveway to lot 1 and lot 32.

Higgins suggested that PC approves this based on option 5, described in her attached memo, and that they need to establish the setback lines (per 94.125(b)(1)c). Higgins commented in order for this layout to work, PC will need to establish that outlot 1 is the front setback to lot 2.

Donner commented to Vreeland that he has been instructed in the past that easements should not be called out on CSM's, that they instead should be made a recordable document. He stated similarly, this agreement or condition on the utility extension should be on a recordable document. Vreeland commented that by listing the easement on the CSM, it is more easily tracked down. Vreeland stated that they will record a separate document as well.

Diesen questioned the possibility of making the private road 5 feet wider for public safety purposes. It was explained that with this being a private road, an extra 5 feet will not make a difference.

****M/S/P Maloney/Stenstrom: to approve the request for approve CCSM-5-13-1334 Vreeland/Bornheimer – Radtke Avenue, based on the contingencies spelled out in Policy Alternatives Option #5, within the Staff Request for Consideration JLH-RC13-014, also contingent on lot 32 being added as a lot within this CSM.***

B. DISCUSSION AND ACTION ON SITE PLAN REVIEW: CSIT-5-13-1331 ERU-6-13-1336 RANDOW/FORESIGHT – STONE RIDGE BUSINESS CONDO CENTER, 4105 TRANSPORT WAY

Dean Prohaska, representing Foresight Custom Homes (as an employee), 3704 Weston Avenue, stated that this was approved by PC once before. He stated that the ownership has now changed.

Higgins stated back in 2011 the site plan for this property was approved, with a contingency that a developer's agreement (drafted by Attorney Weber) be signed prior to issuance of any building permits. She stated that this document was never signed and is basically just sitting out there.

Schuster questioned why this was never signed. Higgins stated the previous property owner never signed it (which it was addressed to Prohaska). Prohaska stated that he did not sign it because he was not the owner of the property at that time. He stated that Foresight Custom Homes owned the property then. He stated that he is not part of that ownership, that there was 3 or 4 members of the company, and they would not sign the agreement.

Higgins pointed out that currently this property is in violation of the zoning code because it was paved over. Higgins stated there was a clause in that agreement that the building was supposed to be completed by December 31, 2012. She stated that she then made contact with Dan Sherman, of Beneficial Reuse, who was aware that this was basically capped in violation, and that we were going to begin, this spring, the start of the process in Circuit Court to abate this situation. During this timeframe, staff received a call from Randow that he purchased the property from Foresight Custom Homes. He was looking to build the exact same approved plan (versus a plan of his own). Higgins stated that she was instructed by Attorney Yde to give Randow the benefit of the doubt and bring it back through for approval. This is the same plan previously approved. The building permit application has been in the Building Inspector's office since last fall, waiting for Tatro's approval. Yde instructed her to have staff send Randow a letter giving him new deadlines to meet. Higgins stated that staff will request the building permit by September 1, 2013, and that the building be completed by September 1 of 2014. This will be a condition of the approval (which is explained in the Staff Request for Consideration JLH_RC13-015). She stated that the pond on lot 7 is now under the ownership of a bank in Illinois (due to foreclosure). Also, as part of a condition of the approval, we need to make sure the bank is aware there is a pond on this lot and that the maintenance agreement gets signed by Randow and the bank. Higgins explained to White that Randow will need to provide on their plans that mechanical equipment and trash receptacles are all properly screened, per code. Higgins then also stated that one other condition would be (per the Fire Department) that a Knox box is placed on the building for EMS personnel access.

Higgins stated that this site development will be similar to the Erickson Contractor Condo development. Higgins stated that Randow does custom cabinetry and he will have his showroom and facility in here.

Higgins stated that there are no issues with flyash under the pavement. Stenstrom pointed out that the building permit that the DNR issued for the flyash use expires in July of 2013. Stenstrom commented with that in mind, after July, this entire site will then be in violation. Stenstrom does not see how Randow will complete this project by July. Higgins feels the DNR will give Randow an extension. Stenstrom stated that the language in that permit states that the DNR will tear out the flyash material is not done by deadline. Higgins stated we can allow Randow to attempt this development or have the DNR tear out, otherwise the Village will start the proceeding of abatement.

White questioned a commitment from the developer to start constructing a building on this site. Higgins stated the building permit application was submitted and has been in our office since last fall. Since no one would sign the agreement, staff has not issued the building permit to allow them to start. There was discussion as to whether that agreement is required anymore,

since the purpose of the agreement was to ensure that a building would be built prior to the parking lot being paved – and that parking lot is now paved. Higgins stated there is a hole in the pavement, where the future building will be located.

Diesen questioned if there were any issues with the screening from Yaeger Auto Salvage, which staff indicated that there were no problems with that.

Schuster would prefer to have Randow present. Schuster would like to see staff's letter that will be sent to Randow. Higgins stated this will basically be her first letter to Randow stating that his property is in violation, and that specific things need to occur within a specific timeline. She stated that if PC approves this site plan tonight, Tatro would then issue the building permit to Randow, and he will then start constructing his building. Then, Randow would only have to meet the September 1, 2014 deadline.

Maloney feels so much time has passed that he would like to see this again, but with Randow present at the meeting. Higgins displayed the previously approved building plans. Maloney questioned the difference from this development use over what was proposed previously by Steve Meinel. Higgins stated the difference was the zoning district.

Donner questioned if there is an expiration date for building permits issued. Tatro stated a 2-year approval time frame. White confirmed that this is the same building design as before, but that required signatures were never obtained from the previous owner.

Higgins stated Randow called a while back to request TIF money, which she explained to him then that we do not have any TIF money available.

****M/S/P Maloney/Schuster: to table the site plan for CSIT-5-13-1331 ERU-6-13-1336 Randow/Foresight – Stone Ridge Business Condo Center, 4105 Transport Way.***

If Randow attends the next meeting, PC will take this issue off the table for action.

C. DISCUSSION AND ACTION ON REQUEST FOR BUILDING ELEVATION MODIFICATION – MASONRY WAIVER: CSIT-11-12-1318 ERU-11-12-1319 STONEY RIVER PHASE II, 7704 FRANCISCAN WAY

Terry Howard, Owner of Stoney River Assisted Living, and Tom Mudrovich, Architect, were present. Howard commented they are planning another assisted living facility. This is much smaller, and will be a dedicated memory care/Alzheimer's facility, which is about 1/3 size of the other building. He felt the stone appearance on this smaller building versus the larger building would not be as aesthetically pleasing if the brick was brought all the way up, and that it would look much better if only extended to the height of the windows. This will be its own building, separate from the others, and will be closer to Franciscan Way. This building will run east to west, where the other run north to south. There was further discussion on the layout plans.

****M/S/P Maloney/Froelich: to approve the request for building elevation modification – masonry waiver: CSIT-11-12-1318 ERU-11-12-1319 Stoney River Phase II, 7704 Franciscan Way. Q: There was discussion the elevation for stormwater drainage, and concern with the watermain extension. Mudrovich and Howard explained their how they made the stormwater drainage to work around their property, and explained their reasoning for how they have the watermain extended to the new building. Donner stated they were just questioning where moving the utilities. Higgins stated it was explained at the meeting by Point of Beginning. Higgins stated this request is just for a façade change. Motion carried.***

5) STAFF REPORTS**A. REPORT TO PLAN COMMISSION ZONING CODE PROJECT, INCLUDING DISCUSSION ON THE INTERGOVERNMENTAL ZONING CODE STEERING COMMITTEE MEETING**

Higgins discussed the first meeting occurred on June 6th. She stated that Roffers was impressed with group. We are working on scheduling the 2nd meeting, and will have, later this summer, a draft to present to the PC. Stenstrom stated most of the heavy lifting will occur on the PC's side, not the steering committee. Higgins explained that the new code will be longer, mostly due to there being more definitions, and there will be district changes.

B. REPORT TO PLAN COMMISSION ON COMPREHENSIVE PLAN PROJECT

Higgins stated while Roffers was here last week, staff met with him to discuss the Comprehensive Plan project. She explained that we are looking to schedule a joint meeting of the Village Board and Plan Commission. We are looking at late July or early August. During this meeting, we will look at what we have done with our Comprehensive Plan and why we did not do certain things that were put into the Comprehensive Plan. There was discussion on possible changes to how reviews (site plan, conditional uses, etc.) will be delegated down (PC final approval versus VB, or staff final approval, versus PC and VB), and how we will be looking to streamline our processes. Higgins stated there will also be provisions included for applicants, who are not satisfied with outcomes of actions taken to go a step up in the chain of command (PC or VB).

C. REPORT TO PLAN COMMISSION ON MARATHON COUNTY FARMLAND PRESERVATION PLAN UPDATE

Higgins stated she met with the County & Town of Weston to work on this. She met with Gary Buchberger (the only property owner with land currently under an agreement with the State) about his land. Based on how this program will work, the Village of Weston may not have enough land eligible for this program. She commented that we need 80% of contiguous eligible properties to take the credits. We do not see this happening. We will most likely put the Farmland Preservation district in our zoning code, but it will be unused.

9) COMMISSION MEMBER BUSINESS

Stenstrom requested we have on our next agenda, adoption of Roberts Rules of Order, as he recently learned that none of Weston's committees has adopted these in the past. It was explained to him that we for the most part follow those rules already. Maloney suggested this be something to be adopted by the Village Board for all Committees (versus each Committee adopting). Higgins pointed out that rather than to table, we should technically be deferring items.

Froelich commented that his wife has accepted a job in Fairmont, Minnesota. They will be moving, however, until that occurs, he will stay on the Committee.

10) SET DATE FOR NEXT MEETING

A. July 8, 2013, 6:00 P.M.

ADJOURN

****M/S/P Diesen/Maloney: to adjourn at 7:05 p.m.***

Respectfully submitted,

Valerie Parker

Valerie R. Parker, Recording Secretary



PLAN COMMISSION

REQUEST FOR CONSIDERATION / JUNE 10, 2013

JLH_ RC13-014

ITEM DESCRIPTION: Request by Elmer Bornheimer for a private street or way off of Radtke Avenue.

REPORT PREPARED BY: Jennifer Higgins, Director of Planning & Development

REPORT DATE: Mon., 6/3/13 **MEETING DATE:** Mon. 6/10/13

ADMINISTRATOR'S COMMENTS:

No additional comments to this report
See attached comments

___X___

FISCAL SUMMARY:

Budget Line Item: NA
Budget Line Item: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

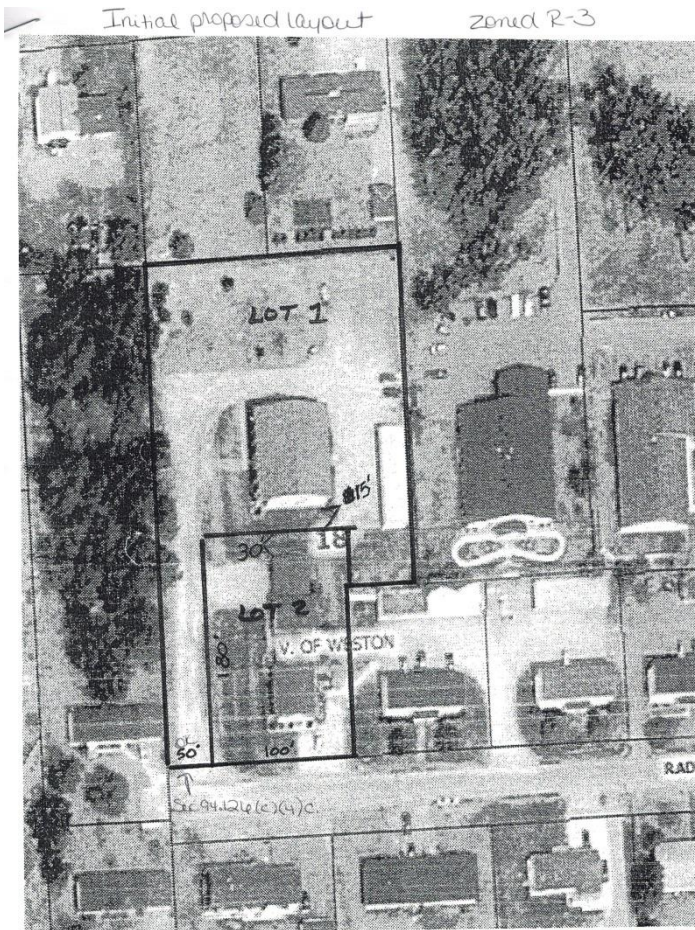
Wisconsin Statutes: Chapter 236 Wis.
Stats.
Municipal Code: Sec. 94.126(b)
Secs. 70.130
through 74.133
and Sec. 74.135

POLICY QUESTION / ISSUE:

Should the Plan Commission approve the request by Mr. Bornheimer to allow a private street off of Radtke Avenue?

BACKGROUND / ANALYSIS:

Village staff received an application for *Certified Survey Map Approval* (CCSM-5-13-1334) from Registered Land Surveyor, Tim Vreeland of Vreeland Associates, Inc. 6103 Dawn Street, Weston, WI 54476, for the Elmer Bornheimer property located along Radtke Avenue in the Village of Weston. Mr. Bornheimer owns a 1.7 acre, R-3 residential multiple family zoned lot, with two multifamily buildings (an 8-unit apartment building to the north and a single family home attached to a duplex along Radtke Avenue) located on it. The lot layout predates current staff so I have no idea how or why the "tri-plex" was completed in that way. I believe that Mr. Bornheimer and his wife live in the home portion. The rest of the units are



rented out. Due to refinancing the property, Mr. Bornheimer was requesting the CSM to divide the parcel to create two new parcels with a building on each lot. When the initial layout came in to staff, it showed creating two lots, one that would be considered a flag lot with 50' access onto Radtke Avenue (See image to left). Lot 2 would have 100' of frontage along Radtke Avenue. Unfortunately, after review by Building Inspector Tatro, it was determined that the R-3 required rear setback of 40' could not be met for lot 2. Both buildings on this lot and also a vacant lot to the west also owned by Bornheimer, currently have access via a shared driveway off of Radtke Avenue. Surveyor Vreeland questioned if the shared driveway could be used as a private street/way to access the northern most building and help reduce the setbacks by creating a side yard setback between the two buildings instead of a rear setback that could not be met. He drafted the proposed CCSM-5-13-1334 to illustrate what the lots would look like with

a private street defined by a 50 foot wide outlot. In researching the zoning code, the Plan Commission must approve all private streets or ways so that is why this comes to you tonight. *Per Sec. 94.126(b), subject to the approval of the plan commission, approved private streets or ways that lead to public streets may be substituted for direct public street access provided the commission finds that:*

- (1) It is not in the public interest to require direct public street access at the time of zoning permit application.*
- (2) The proposed development will not preclude provision of public street access in the future. (Note – this is probably highly unlikely without major building removals)*
- (3) Permanent easements satisfactory to the commission are recorded to ensure continued function of the approved private street or way, which easements show no liability of the village to assume maintenance of the easement area. (This would need to be added as a condition of approval if the PC chooses to approve)*
- (4) Any buildings erected or other improvements made do not interfere with future provision of public streets, and are located so as to be in conformance with such future streets. The commission may require that a future street reservation be recorded to set forth the*

commission's intent and ensure compliance with this section. (There is not enough room on the property to allow for a 66 foot wide ROW and still meet setback requirements.)

After looking at the code further, there is not much more discussion about private streets or ways. In regards to the setbacks it only determines base setback lines based off of a public street so creating an outlot in my opinion does not help the setback situation. The rear setback would still be the line that the surveyor is trying to create between the two buildings. Instead, the PC would have to approve the private street and allow for the applicant to create a landlocked parcel similar to the lot to the west (Lot 32 of Assessor's Plat #2) owned by Bornheimer. Per the definition of lot, "such lot shall have frontage on an improved public street, or direct access over property of owner or an easement therefore." Sec. 94.125(b)(1)c may work also if the Plan Commission would allow for the private street, they could then establish the base setback line since the code doesn't differentiate between public or private street, it only refers to a new street. Sec. 94.125(b)(1)c. *Where realignment of an existing street is shown on the plan or a new street is proposed, the location of the base setback line shall be established by the planning commission.*

It all may be a moot point though as DPW staff in their comments below would like an extension of the utility mains on a separate private easement so that the vacant lot (Lot 32) could also be serviced in the future. At one time, the Bornheimer's had inquired about selling this lot 32 to an individual who wanted to put storage units on the property (Dec. 14, 2009 PC minutes attached). I am guessing the landowner will not want to extend the utility mains as requested by DPW.

STAFF COMMENTS:

The Below are comments that I received from Keith Donner, Director of Public Works, concerning this proposed CSM and request for private street or way:

Outlot 1 will not become a street. It is within our discretion to allow a private street. I would say that provided the utility service situation is addressed, the private street can be considered. Fire department access could be a problem though.

Dividing the main property as shown creates a nonconforming situation with utility service. The north building is served by a long lateral from Radtke Street. I believe this is something that a previous owner wanted the Village to accept as a main in the past and I did not agree to since there was no documentation as to the material, depth, etc.

It is not a good idea to have private service laterals crossing property owned by others which in this case would either be Outlot 1 or Lot 2. Lot 2 would be the worst scenario and if the laterals serving Lot 1 do cross Lot 2, a recorded easement should be required as a condition of, or in advance of, the CSM approval.

Also, it is conceivable that someone would want utility service to lot 32 on the west side of Outlot 1. Lot 32 is currently vacant and it is not clear if there is a plan to build there. If that lot sells in the future there would also be no guarantee that utility service could be furnished. The public sewer and water mains end at the end of Radtke so I would think an

extension of the utility's mains should be required on a dedicated easement to correct the non-conforming situation for the existing building on lot 1 and avoid the same for lot 32.

Preference:

CSM is O.K. after a sewer and water main extension are constructed by the lot owner at their expense from Radtke Street to the north end of Outlot 1 and the laterals serving Lot 1 are re-connected to the extension. Lot owner to furnish a recorded easement to the Village for the water and sewer main extensions. Also needed is a recorded easement/agreement stating that Outlot 1 is for private access to Lot 1 and Lot 32 with provisions as to apportioning driveway construction and maintenance costs to Lot 1, Lot 2, and Lot 32.

Alternate:

Deferral of utility main extensions:

1. The purpose of Outlot 1 should be explicitly described in a recorded easement. That purpose should include private access to Lot 1 and Lot 32 and for a non-exclusive easement for water and sanitary sewer facilities. (This will eliminate having to deal with multiple property owners in the future or having to compensate someone for an easement).
2. Location of water and sewer laterals serving Lot 1 are verified on the CSM or similar map and an easement for the laterals serving Lot 1 is recorded across either Outlot 1 or Lot 2, whichever applies.
3. When utility service is requested to Lot 32 at any time in the future, the owner/developer of Lot 32 must extend water and sanitary sewer mains from Radtke Street to the north end of Outlot 1 for connection of Lot 32 and re-connection of Lot 1 service laterals. All at developer's cost. (This should preferably be in a recorded agreement. We may wish to consult with Matt Yde as to how best to accomplish this. Mr. Weber drafted similar agreements for us in the past).

POLICY ALTERNATIVES

- Option #1: Deny the request for a private street or way.
- Option #2: Have the surveyor remove the outlot and allow the landlocked parcel to be created with an access easement for both landlocked parcels via the private street. Approve the request to allow a private street, contingent that a sewer and water main extension are constructed by the lot owner at their expense from Radtke Street to the north end of Outlot 1 and the laterals serving Lot 1 are re-connected to the extension. Lot owner must furnish a recorded easement to the Village for the water and sewer main extensions. Also needed is a recorded easement/agreement stating that Outlot 1 is for private access to Lot 1 and Lot 32 with provisions as to apportioning driveway construction and maintenance costs to Lot 1, Lot 2, and Lot 32.

- Option #3: Same as Option #2 except allow the outlot and also establish base setback lines per 94.125(b)(1)c.
- Option #4: Have the surveyor remove the outlot and allow the landlocked parcel be created with an access easement for both landlocked parcels via the private street, approve the request to allow a private street, defer the utility main extension in the present and require that:
 1. The purpose of Outlot 1 should be explicitly described in a recorded easement. That purpose should include private access to Lot 1 and Lot 32 and for a non-exclusive easement for water and sanitary sewer facilities. (This will eliminate having to deal with multiple property owners in the future or having to compensate someone for an easement).
 2. Location of water and sewer laterals serving Lot 1 are verified on the CSM or similar map and an easement for the laterals serving Lot 1 is recorded across either Outlot 1 or Lot 2, whichever applies.
 3. Record an agreement subject to Village Legal Counsel approval stating that when utility service is requested to Lot 32 at any time in the future, the owner/developer of Lot 32 must extend water and sanitary sewer mains from Radtke Street to the north end of Outlot 1 for connection of Lot 32 and re-connection of Lot 1 service laterals. All at developer's cost.
- Option #5: Same as Option #4 except allow the outlot and have the PC establish base setback lines per 94.125(b)(1)c.

STAFF RECOMMENDATION

It is staff recommendation that the Plan Commission deny Mr. Bornheimer's request for a private street or way as we do not feel the Commission will be able to find that all of the requirements listed in Sec. 94.126(b) are true or can be met.

If the Plan Commission so chooses to approve, staff recommends option #3. By addressing access and the utility service up front, Lot 32 will be more marketable and developable and not push the issue of the utility extension off to a future landowner.

ACTION REQUESTED:

I make a motion to deny Mr. Bornheimer's request for a private street or way.

(If in agreement, please state the following: "I make a motion to approve the requested action, as stated in this report". Clerk will then take above 'Action Requested' motion and insert in meeting minutes, if there are no modifications and corrections.)

ADDITIONAL ITEMS:

- CCSM – 5-13-1334
- Bing Map of Area <http://binged.it/10U2oGV>
- Wisconsin Statutes: Chapter 236 Wis. Stats. (specifically [Sec. 236.34](#) Recording of certified survey map; use in changing boundaries; use in conveyancing)

- Municipal Code: Sec. 94.126(b) *Approved private street or way*
Sec. 74.130 *Lots*
Sec. 74.131 *Procedures for approval and appeal*
Sec. 74.132 *Requirements*
Sec. 74.133 *Certified survey map review checklist*
Sec. 74.135 *Land abutting a private way*



PLAN COMMISSION

REQUEST FOR CONSIDERATION / JUNE 10, 2013

JLH_ RC13-015

ITEM DESCRIPTION: Request for Site Plan Approval CSIT-5-13-1331 ERU-6-13-1336
Randow/Foresight – Stone Ridge Business Condo Center, 4105
Transport Way

REPORT PREPARED BY: Jennifer Higgins, Director of Planning & Development

REPORT DATE: Thurs., 6/6/13 **MEETING DATE:** Mon. 6/10/13

ADMINISTRATOR'S COMMENTS:

No additional comments to this report
See attached comments

 X

FISCAL SUMMARY:

Budget Line Item: NA
Budget Line Item: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: Chapter 61 & 62
Wis. Stats.
Municipal Code: Chapter 94
Zoning

POLICY QUESTION / ISSUE:

Should the Plan Commission approve the site plan as submitted by Foresight Custom Homes on behalf of new property owner Gregg Randow?

BACKGROUND / ANALYSIS/ STAFF COMMENTS:

A Site Plan Staff Report has been completed for this item and is attached to this Request for Consideration for greater detail.

STAFF RECOMMENDATION

It is staff recommendation that the Plan Commission Staff approves the Site Plan as submitted contingent on the following:

- a. No longer requiring the written Developers Agreement drafted previously by Attorney Weber.

- b. Per Attorney Yde's advice, a letter is drafted by Staff and mailed to property owner Randow warning him that the property is in violation and currently not to code but that we would give him the benefit of the doubt that he if he would follow through with the plans and make things right by taking out the building permit by September 1, 2013 and having the building complete by September 1, 2014 we would not seek legal means to tear up the asphalt and remove the flyash. I have spoken to Mr. Randow about this already and he is agreeable to the items that would be in the letter. Mr. Yde also stated that if it came to this, he believed that Mr. Randow had every right to sue Foresight Development to return the site to compliance.
- c. Prior to Final Occupancy being issued by the Village Building Inspector, the owner will submit to the Public Works Director:
 - i. A maintenance agreement approved and signed by the owner, Mr. Randow, and the owner of Stone Ridge Business Center Lot 7 (Aster Properties, LLC, 9550 W. Higgins Rd, Rosemont, IL 60018) detailing the future maintenance of the pond on Lot 7. This agreement, referenced in a letter from Foresight dated October 6, 2011, is needed since neither lot is owned by the same individual anymore.
 - ii. Owner will need to verify that all mechanical equipment such as plumbing vent stacks, HVAC transformers, air conditioners, fans and cooling towers are properly screened from the road view.
 - iii. A knox box is placed outside for EMS personnel access.

ACTION REQUESTED:

I make a motion to make the Site Plan Staff Report **130610_jlh_SR13-001** part of the minutes and approve the site plan with the contingencies outlined by Staff in said report.

(If in agreement, please state the following: "I make a motion to approve the requested action, as stated in this report". Clerk will then take above 'Action Requested' motion and insert in meeting minutes, if there are no modifications and corrections.)

ADDITIONAL ITEMS:

Site Plan Staff Report 130610_jlh_SR13-001

2011 Developers Agreement

October 6, 2011 stormwater management letter (Foresight)

Recorded *Industrial Byproduct Affidavit*

Plan Commission Minutes from 8/10/10, 10/10/11, 11/14/11 and 12/12/11

CSIT-5-13-1331 ERU-6-13-1336 Site Plan and Application materials



PLAN COMMISSION

REQUEST FOR CONSIDERATION / JUNE 10, 2013

JLH_ RC13-016

ITEM DESCRIPTION: Request for Building Elevation Modification – Masonry Waiver: CSIT-11-12-1318 ERU-11-12-1319 Stoney River Phase II, 7704 Franciscan Way

REPORT PREPARED BY: Jennifer Higgins, Director of Planning & Development

REPORT DATE: Fri. 6/7/13

MEETING DATE: Mon. 6/10/13

ADMINISTRATOR'S COMMENTS:

No additional comments to this report

 X

See attached comments

FISCAL SUMMARY:

Budget Line Item: NA
Budget Line Item: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes:
Municipal Code: Chapter 94,
Article V, Sec.
94.138

POLICY QUESTION / ISSUE:

Should the Plan Commission approve the request to waive the masonry requirement per Sec. 94.138 of the Zoning Code?

BACKGROUND / ANALYSIS/STAFF COMMENTS

This is Phase II of the Stoney River Assisted Living Development. The original site plan was approved in December 2012. No building permit has been issued for the site. The owners, First Phoenix, are now requesting a waiver for the brick requirement. In talking to the owner, Terry Howard, this morning, he says the main purpose for this request is that they feel the building will look too heavy with all the stone. He says the building is quite a bit smaller than the Phase I and it was recommended by their architect to reduce the stone on the main parts of the building to the bottom of the window instead of going up so high. There is also a substantial cost savings on the building construction of around \$200,000 which helps the development but Mr. Howard assured me that this was not the main objective for the request, the aesthetics of the building was. I might note that they did raise some concerns with me in the past about the dental building along Weston Avenue that recently went up in Crosse

Pointe while Phase I was being constructed. The Plan Commission allowed for a masonry waiver for the dental building but I also pointed out to the Architect and owners that the dental building did not receive TIF funding like Phase I of Stoney River did. In regards to aesthetics, the architect and developers are assuring me that the Phase II building will still compliment Phase I with the brick reduction waiver and they plan to bring both plans to show you that on Monday night. I've always questioned why we require 60% and do believe that as just a number that was thrown out there by the previous Administrator during a code update. In the zoning code update, I hope that we have a thorough discussion on building aesthetics and brick requirements as sometimes I feel meeting the 60% brick requirement is sometimes at the cost of the building looking good.

STAFF RECOMMENDATION

It is my recommendation to grant the masonry waiver.

ACTION REQUESTED:

I make a motion to grant the requested masonry waiver and approve the revised building elevation for Stoney River Phase II.

(If in agreement, please state the following: "I make a motion to approve the requested action, as stated in this report". Clerk will then take above 'Action Requested' motion and insert in meeting minutes, if there are no modifications and corrections.)

ADDITIONAL ITEMS:

2013 Revised Building Elevations and color rendering

2012 Building Elevations and color rendering

Site Plan CSIT-11-12-1318/ERU-8-12-1319: Site Plan Approval – Original 2012 Approval
Sec. 94.138